

**ASSEMBLY BILL**

**No. 1770**

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**Introduced by Committee on Public Employees, Retirement and Social Security (Torrico (Chair), Jones, Mullin, and Negrete McLeod)**

April 4, 2005

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An act to amend Section 28001 of the Education Code, relating to state teachers' retirement, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1770, as introduced, Committee on Public Employees, Retirement and Social Security. State Teachers' Retirement System: military service.

The Teachers' Retirement Law prescribes benefits under the Cash Balance Benefit Program of the State Teachers' Retirement Plan and provides that a participant of the program who returns to employment with the same employer after service in the uniformed services, as defined, in accordance with federal law, is treated as not having incurred a break in performance, subject to specified requirements and restrictions, including the payment of employee contributions, as specified.

This bill would provide that a participant who performed service in the uniformed services after September 11, 2001, and returned to employment prior to July 30, 2005, with the same employer, subject to certain limitations, is not required to make those employee contributions for the 12-month period following his or her entry into that military service.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 28001 of the Education Code is  
2     amended to read:  
3     28001. (a) The participant who returns to employment with  
4     the same employer which had employed the participant  
5     immediately prior to the eligible period of service in the  
6     uniformed services, in accordance with the requirements of  
7     Chapter 43 (commencing with Section 4301) of Title 38 of the  
8     United States Code, shall be treated as not having incurred a  
9     break in the performance of creditable service by reason of that  
10    participant's period or periods of service in the uniformed  
11    services. The length of each period of service in the uniformed  
12    services shall not exceed five years unless otherwise permitted  
13    pursuant to Section 28004. Each period of service in the  
14    uniformed services by the participant shall, upon that  
15    participant's return to employment with the same employer or  
16    employers which had employed the participant immediately prior  
17    to the eligible period of service in the uniformed services,  
18    constitute employment toward the performance of creditable  
19    service provided that participant elects to remit the employee  
20    contributions that would have been made during the period of  
21    service in the uniformed services. The remittance of employee  
22    contributions shall be calculated pursuant to Sections 26501 and  
23    28003. In no event shall that remittance exceed the amount the  
24    participant would have been required to contribute during that  
25    period of performance of creditable service had the participant  
26    remained continuously employed by the last employer and not  
27    served in the uniformed services throughout that period.  
28    (b) Notwithstanding Section 26506, remittance of employee  
29    contributions in accordance with subdivision (a) shall be made by  
30    the employer pursuant to Section 26502 upon the employer's  
31    receipt of written consent of the participant specifying a schedule  
32    of repayments. That remittance shall commence during the  
33    period beginning with the date of return to employment and may  
34    continue for three times the period of the participant's eligible  
35    period of service in the uniformed services, not to exceed five

1 years. The plan's receipt of the remittance payments to the plan  
2 with respect to the Cash Balance Benefit Program shall be  
3 credited pursuant to Chapter 7 of this part. Interest on the  
4 payments of remitted employee contributions made for the period  
5 of service in the uniformed services shall not be credited in the  
6 participant's account until after such payments are received and  
7 only prospectively to the participant's account in accordance  
8 with Section 26604. Upon receipt of the remittance payments to  
9 the plan, the payments shall be subject to the same terms and  
10 conditions under the program as if the payments had been  
11 employee contributions made by the participant had the  
12 participant not served for a period in the uniformed services. In  
13 no event shall the current year contributions and contributions  
14 made for purposes of purchasing service exceed the maximum  
15 exclusion allowance as set forth in the Internal Revenue Code.

16 *(c) A participant shall not be required to make the*  
17 *contributions to his or her employee account pursuant to*  
18 *subdivision (a) for the 12-month period immediately following*  
19 *his or her entry into the eligible period of service in the*  
20 *uniformed services, if that service was performed on or after*  
21 *September 11, 2001, and the participant returned to employment*  
22 *prior to July 30, 2005, with the same employer that had*  
23 *employed the participant immediately prior to the eligible period*  
24 *of service. However, upon receipt of the employer contributions*  
25 *made pursuant to Section 28002, a credit shall be made to the*  
26 *participant's account in the amount of the employee*  
27 *contributions the participant would have otherwise made to his*  
28 *or her employee account pursuant to subdivision (a) for the*  
29 *eligible period of service in the uniformed services. This*  
30 *subdivision does not modify the employer's obligation to make*  
31 *contributions on behalf of the participant pursuant to Section*  
32 *28002.*

33 SEC. 2. This act is an urgency statute necessary for the  
34 immediate preservation of the public peace, health, or safety  
35 within the meaning of Article IV of the Constitution and shall go  
36 into immediate effect. The facts constituting the necessity are:

37 To provide urgently needed assistance to state military  
38 personnel, it is necessary that this act take effect immediately.

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